



August 5, 2010

Ms. Mary Camacho  
Mr. Nasir Ahmadi  
Ms. Kerri Spano  
Applicant Review Panel  
c/o Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

RE: Concerns Regarding the Process of Reducing the Citizens Redistricting Commission to 60 Applicants

Dear Ms. Camacho, Mr. Ahmadi and Ms. Spano:

On behalf of the Asian Pacific American Legal Center (APALC), a member of Asian American Center for Advancing Justice, the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, the Greenlining Institute, and the Central Coast Alliance United for a Sustainable Economy (CAUSE), we write to you regarding your next steps for reducing the Citizens Redistricting Commission applicant pool to 60.

We understand that the Applicant Review Panel (ARP) will be interviewing 120 applicants in order to reduce the pool to 60, and that the interviews are commencing on August 6. We would like to raise the following issues regarding this process:

**I. When selecting 60 of the most qualified applicants, the ARP should look carefully at applicants' understanding of how certain California population groups have lacked opportunities for effective electoral participation. The ARP should also examine applicants' experience with and commitment to securing compliance with the federal Voting Rights Act of 1965 (VRA).**

The Voters First Act (the "Act") and the regulations promulgated under it place great emphasis on the relationship between redistricting and the political participation of underrepresented groups. When setting forth the qualifications of Commissioners, the Act's regulations explicitly recognize the relationship between diversity and political representation, and the benefits of ensuring effective political participation for California's under-represented groups. These concepts are integral components of the regulations' definition of "appreciation for California's diverse demographics and geography" as set forth in §60805(a) of the regulations. When describing this qualification, the regulation does not merely require Commissioners to possess an understanding of the demographic and geographic diversity of California's population. Under

§60805(a), Commissioners must understand that the diverse characteristics of individuals “may reflect their preferences concerning political representation.”

Moreover, §60805(a)(3) specifically indicates that “appreciation for California’s diverse demographics and geography” must encompass a recognition of the importance of effective participation in the political process by underrepresented groups who have lacked opportunities to participate because of their shared demographic characteristics:

Thus, we urge the ARP, when examining applicants’ appreciation for California’s diversity, to go beyond merely assessing applicants’ knowledge of the demographic and geographic diversity of the state’s population, and applicants’ experiences working with diverse population groups. The ARP must also look at whether such knowledge and experience reflect an understanding of how some population groups in California have had less opportunity to participate in the electoral process, as a consequence of their shared demographic characteristics.

In addition, we believe the ARP, when determining the qualifications of applicants, should carefully examine their commitment to and experience with securing compliance with the VRA. Under the Act, compliance with the federal VRA is the second-highest priority criterion for the maps that will be drawn by the Commission. (Cal. Const., art. XXI, § 2(d)(2).) Moreover, even if compliance with the VRA was not specifically mentioned in the California Constitution, federal law would require that California’s maps comply with its provisions.

Congress enacted the VRA to protect against discrimination in the voting and electoral process, particularly discrimination against underrepresented groups such as African American, Asian Americans and Pacific Islanders, Latinos and Native Americans. In order to determine whether California’s maps comply with the VRA, Commissioners must be fully committed to safeguarding the rights of these groups during the redistricting process. Ideally, Commissioners should have experience with analyzing or enforcing the protections of the VRA on behalf of these groups.

We believe that the ARP should utilize several opportunities available to examine applicants’ understanding of the importance of effective participation by underrepresented groups in California’s electoral process, and their commitment to and experience with the VRA. The ARP could re-review applicants’ essay questions, or request additional information from them. The ARP could also ask applicants about these issues during the interviews. We note that none of the five standard questions the ARP will be asking every applicant explicitly explores these issues. We believe it is particularly important that the ARP utilize the foregoing opportunities when the information available to the ARP on a particular applicant does not clearly reflect his or her qualifications with regard to the VRA or an understanding of the importance of effective electoral participation by underrepresented groups.

**II. It is appropriate for the ARP, when examining the geographic diversity of the applicant pool, to permit concentrations of applicants in certain geographic areas, as long as such concentrations reflect the actual geographic distribution of California's population.**

As the ARP reduces the applicant pool to 60, the ARP must continue to consider whether the pool is reasonably representative of California's geographic diversity, as required by the Act and its regulations. In order to effectively achieve this, we believe that it is appropriate for there to be significant concentrations of applicants from those geographic regions of California where the state's population is concentrated.

For example, according to the U.S. Census Bureau's 2008 American Community Survey data, about 46% of California's population resides in the Southern Coastal region, which under the Bureau of State Audit's (BSA) designation includes the counties of Los Angeles, Orange, San Diego and Ventura. Under the BSA designation, the Bay Area region includes the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma, and 19% of the state's population resides in this region. Thus, in order for the applicant pool to be reasonably representative of the state's geographic diversity, it is appropriate for there to be significant concentrations of applicants from both the Southern Coastal and Bay Area regions. We urge the ARP to take this consideration into account as it reduces the pool to 60 applicants.

**III. The ARP should not make any reductions in the applicant pool until after it has interviewed all 120 applicants, and has provided a meaningful opportunity for public comment after all interviews are completed.**

We believe that the ARP's interview process will provide information that is critical to determining which 60 of the most qualified applicants should remain in the applicant pool. This assessment should involve some comparison of the respective qualifications of different applicants. Any reduction in the applicant pool before all of the interviews are completed will be detrimental to a fair and effective assessment of the applicants. First, the ARP will not be able to fairly compare the relative qualifications of all of the applicants until every applicant has been interviewed, particularly since every applicant will be asked five standard questions. Moreover, under such circumstances, the public will not have an opportunity to make a similar assessment, and will lack the information needed to make meaningful comments about individual applicants or the overall qualifications reflected in the pool.

In addition, when it selects the 60 finalists, the ARP must consider whether the overall diversity of the entire pool of 60 reasonably reflects California's diversity, and it should similarly consider the diversity of each of the three sub-pools of applicants (Democrat, Republican, Other Party). We believe that making reductions in the applicant pool before the interviews are completed will impair the ability of the ARP to make these considerations effectively.

Finally, we urge the ARP to provide the public with a meaningful opportunity to provide comments on applicants and the applicant pool after all of its interviews are completed and before it reduces the pool to 60. We note that §60849(f) of the regulations requires the deadline

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for members of the public to submit comments during the interview phase of the selection process to be set after the conclusion of all of the interviews. We understand that the ARP's interviews will conclude on September 13, and we urge the ARP to set the public comment deadline at least ten days after September 13 so that members of the public will have enough time to review the information elicited from the interviews of the applicants, and as noted above, to compare the respective qualifications of applicants. If the ARP wishes to make the final reductions in a manner that is consistent with the openness and transparency required by the Act, it is critical that the public have sufficient time to make a last round of comments on the applicants before the final reductions are made.

Thank you for the opportunity to share our comments.

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